




January 16, 2020

TO: Honorable Mayor and City Council

FROM: Edward C. Starr, City Manager 

SUBJECT: CITY MANAGER'S WEEKLY REPORT: January 13 – 16, 2020

OFFICE OF THE CITY MANAGER

- On December 31, 2019, the United States District Court for the Southern District of California, in [California Trucking Assn. v. Becerra](#) (*CTA v. Becerra*), issued an order temporarily enjoining the enforcement of [Assembly Bill 5 \(AB 5\)](#) as it relates to any motor carrier in California, pending a hearing on a motion for preliminary injunction set for January 13, 2020.

AB 5, passed by the California Legislature in 2019, provides that persons hauling or driving freight for a motor carrier is presumed to be an employee of the carrier unless (1) the person is free from control of the hiring entity, (2) the person performs work that is outside the usual course of the hiring entity's business, and (3) the person is customarily engaged in an established trade, occupation or business of the same nature as that involved in the work performed. This three-part test is known as the "ABC test" based on the California Supreme Court's decision in [Dynamex Operations West, Inc. v. Superior Court of Los Angeles](#) (*Dynamex*).

The California Trucking Association (CTA) challenged AB 5 by arguing the Federal Aviation Administration Authorization Act ("FAAAA") of 1994 preempts state laws "relating to a price, route or service of any motor carrier". After the 2018 *Dynamex* decision was issued, Governor Gavin Newsom signed AB 5 into law, clarifying the *Dynamex* independent contractor test and codifying the test into law. As a result, truckers, Uber and Lyft drivers and other occupations historically classified as independent contractors and not listed as exempt under AB 5 are required to reclassify from independent contractors to employees.

Under *Dynamex*, the Court effectively prevented the California State Attorney General, the Labor Development Workplace Agency, the Department of Industrial Relations, the California Labor Commissioner, and the Employment Development Department from enforcing AB 5 against "owner operators" as well as other

persons who have traditionally been retained as independent contractors in the trucking industry.

The District Court decision in *CTA v. Becerra* held that the second prong of the ABC test is preempted by the Federal Aviation and Administration Authorization Act of 1994 (“FAAAA”), which prohibit states from enacting or enforcing laws or regulations that relate to “a price, route or service of a motor carrier...with respect to the transportation of property.” Relying on the Ninth Circuit Court of Appeals’ 2009 decision in [American Trucking Association v. City of Los Angeles](#), the District Court held that an “all or nothing rule” requiring services to be performed by certain types of employee drivers is “likely preempted” by the federal law. The District Court further ruled that the equities weighed in favor of granting the injunction and that it was in the public interest to do so, based in part of the fact that AB 5 provides an alternative test for determining independent contractor status based on the [Borello standard as enunciated in the 1989 case, S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations](#).

This past Monday, U.S. District Judge Benitez extended the temporary restraining order that blocks AB 5 from being enforced for the trucking industry and it will remain in place until a ruling on the injunction, which could take days or weeks.

- Last Friday, Governor Gavin Newsom’s revealed a \$222 billion proposed state budget which increases spending by 2.3% or about \$5 billion. The Budget consists of approximately \$153 billion from the General Fund, \$63.8 billion from special funds, and \$5.4 billion from bond funds. In addition, the state would get \$107 billion from the federal government for various programs. Below are some of the highlights from the budget proposal.

Building Reserves and Reducing Liabilities

The Budget continues to grow the reserves in the Rainy Day Fund and assumes an additional transfer of nearly \$2 billion in 2020-21 and an additional \$1.4 billion over the remainder of the three-year forecast period. The Rainy Day Fund balance is projected to be \$18 billion in 2020-21 and \$19.4 billion by 2023-24.

Addressing the Affordability Crisis

Last year, the state passed historic measures to expand access to health care subsidies for the middle class, approved the strongest renter protection law in the nation, and provided \$1 billion in tax relief for working families through the expanded Earned Income Tax Credit (EITC), while investing in affordable housing production efforts.

The Administration has announced a new CalRx generic drug program making California the first state to create its own generic drug label and making the state’s generic prescription drugs available for sale to all Californians. The Budget also moves the state toward universal coverage and furthers cost containment goals by

expanding full-scope Medi-Cal coverage to low-income undocumented Californians aged 65 and above.

This year's Budget authorizes \$500 million annually for the state's housing tax credit program and continues to support housing development on excess state lands. In addition, the Administration is streamlining state processes to accelerate housing production. Finally, the Administration continues to work to establish a trust with \$331 million that will provide borrower relief and support housing counselors or other legal aid agencies in representing homeowners and renters in housing-related matters.

Confronting the Homelessness Crisis

The Budget introduces several new strategies to build on the \$1.15 billion provided to local governments in the last two budgets.

The Budget proposes more than \$1 billion to house the many unsheltered individuals living in California, by launching the [California Access to Housing and Services Fund](#) with a \$750 million initial investment. This Fund will (a) pay rent for individuals facing homelessness; (b) support regions to bring on more dwelling units and (c) help stabilize board and care facilities/homes. Unlike other state efforts, this money will go directly to service providers.

The Budget includes \$695 million (including federal funds) growing to \$1.4 billion by 2022 for an effort to transform Medi-Cal to boost preventative health care that brings down the cost of health care. This expansion proposal formerly known as CalAIM and now called Medi-Cal Healthier California for All, would specifically address many challenges of chronically unsheltered populations – providing funding for tenancy support services, housing navigation services, recuperative care, and could include targeted rental assistance if housing insecurity is tied to inappropriately high utilization of costly health care services.

The budget includes \$24.6 million in 2020-21 and \$364.2 million over 6-years for the Department of State Hospitals to implement efforts in three pilot counties to place individuals with mental health needs, specifically those designated Incompetent to Stand Trial, into stable placements in the community instead of state hospital placements. The program will be known as the Community Care Collaborative Pilot (CCCP).

Additional details regarding the above homelessness investments can be found in the Governor's [executive order N-23-20](#).

Mental Health

The Administration is proposing to update the Mental Health Service Act. The Governor's Budget document suggests prioritizing MHSA to focus on people with mental illness who are also experiencing homelessness, in the criminal justice system, and early intervention for youth. The budget would create a Task Force

of vested stakeholders, including counties, to review existing policies and programs, such as the Lanterman-Petris-Short Act that regulates involuntary civil commitment.

Emergency Response and Effective Government

The Budget enhances the Department of Forestry and Fire Protection's operational capabilities by adding funding for new firefighters during peak fire season, increasing the number of year-round engines, and providing further relief coverage to support state firefighter health and wellness. The Budget also increases the use of technology by obtaining Light Detection and Ranging (LiDAR) data to better inform resources management and hazard assessment decisions, and establishes a new Wildfire Forecast and Threat Intelligence Integration Center to analyze data on wildfire risk.

Climate Budget

The climate budget includes \$12 billion over the next five years. Three key areas of the climate budget are a proposed climate resilience bond, cap-and-trade expenditures to continue the transition to a carbon-neutral economy, and a new Climate Catalyst Fund to promote the deployment of new technologies, especially by small businesses and emerging industries.

The Climate Catalyst Fund, which will be administered by the Infrastructure and Economic Development Bank, will finance investments in low-carbon transportation, sustainable agriculture and waste diversion through low-interest loans. The Budget proposes to capitalize the Fund with \$1 billion General Fund over the next four years.

The Fund will have a revolving loan structure that will leverage private capital and will support projects well into the future. It will be designed to support good jobs and a just transition to achieving California's climate goals.

Jobs, the Economy and Protecting the Environment

The Budget includes funding to establish a new Department of Better Jobs and Higher Wages to consolidate the workforce functions currently dispersed across the Labor and Workforce Development Agency. It also funds the next \$1 dollar increase in the state's minimum wage, bringing it to \$13 per hour for most employees as of January 1, 2020. The Budget also proposes to reduce the minimum franchise tax for new small businesses, removing a barrier to entrepreneurship and job creation. Finally, the Budget allocates \$53 billion to the state's infrastructure over the next five years, focusing on investments that underpin economic activity and create a sustainable and resilient California.

Promoting Opportunity for All

The Budget builds on the historic investments made last year to expand access to child care, preschool and full-day kindergarten with funding for 10,000 additional full-day or full-year preschool slots, moving the state closer to its goal of universal preschool for all income-eligible four-year-olds. The Budget also expands the EITC, and increases the amount of child support payments retained by families on CalWORKs, effective January 1, 2022.

The 2019 Budget Act expanded Paid Family Leave from six to eight weeks. The Budget builds on this expansion by proposing to extend job protections to more employees, thereby expanding the number of families that can take advantage of this benefit.

The Budget also proposes developing a new adverse childhood experiences, or ACEs, cross-sector training program and establishing a new Department of Early Childhood Development under the Health and Human Services Agency, effective July 1, 2021.

Reimagining Criminal Justice

The Budget proposes to cluster the 5,800 young offenders (under age 26) into campus-style environments within existing facilities, with specialized programming and educational opportunities. The Budget also includes a major investment in technology for inmates participating in academic programs and expanded access to higher education programming through partnerships with the California State University system. The Budget includes a major proposal to enhance staff development through a new training facility and training program for correctional officers and counselors.

The full Proposed Budget summary can be found [here](#).

ECONOMIC DEVELOPMENT DEPARTMENT

- Join us on, Wednesday, January 22, in the Theater Room (west of the Montclair Branch County Library), where the City will be hosting the Census 2020 Complete Count Committee meeting from 6:00 – 7:00 p.m. Please help ensure everyone is counted in the upcoming Census by becoming a Community Ambassador. As an Ambassador, you will serve as a liaison between the City of Montclair and your community. Staff from the office the U.S. Census Bureau Department of Commerce will be providing the presentation.

For additional information, please contact Economic Development Coordinator Thailin Martin via email at tmartin@cityofmontclair.org or at (909) 625-9417.

A flyer for this event is included on Page 7.

HUMAN SERVICES DEPARTMENT

- To honor Montclair veterans, the Community Activities Commission is now accepting new submissions for plaques on the Veteran's Memorial Wall. Each plaque pays tribute to deceased Montclair veterans from all branches of services.

If you would like to purchase a veteran's bronze plaque, please submit complete applications and payment to Mayra Cano at the Recreation Center by Friday, February 21. The cost is \$375 per plaque. Please make checks payable to "City of Montclair." Payment can also be made by credit card; please call (909) 625-9455 to make arrangements.

New plaques will be dedicated on Memorial Day, May 25, 2020, and will remain on the Veteran's Memorial Wall as an ongoing dedication to those who served our country during any war or peacetime.

An application is included on Page 8.



<u>Day</u>	<u>Event & Location</u>	<u>Time</u>
Thurs. 16	Public Works Committee Meeting City Manager's Conference Room	4:00 p.m.
Mon. 20	Martin Luther King Jr. Day — <u>City Offices Closed</u>	
Tues. 21	Code Enforcement Committee — Cancelled	
Tues. 21	Real Estate Committee — Cancelled	
Tues. 21	Council Workshop — U.S. Interagency Council on Homelessness Presentation by Dr. Robert Marbut Council Chambers	5:00 p.m.
Tues. 21	City Council Meeting Council Chambers	7:00 p.m.
Mon. 27	Planning Commission Meeting Council Chambers	7:00 p.m.



CENSUS 2020 COMPLETE COUNT COMMITTEE MEETING

Help the City of Montclair ensure everyone is counted in the upcoming Census. The City welcomes all individuals interested in volunteering as Community Ambassadors. Community Ambassadors serve as a liaison between the City of Montclair and your community.



Please Join Us On:

Wednesday, January 22, 2020

6:00 pm to 7:00 pm

Montclair Theater Room

(Entrance located at the west wing of the Montclair Library)

9955 Fremont Avenue

Montclair, CA 91763



For additional information, please contact:

Thailin Martin via email at

tmartin@cityofmontclair.org

or via phone at (909) 625-9417

CITY OF MONTCLAIR
VETERAN'S
MEMORIAL WALL

Honoring Those Who Served

Application and payment is due
February 21, 2020

Cost is \$375 per veterans' bronze plaque,
 with checks made payable to City of Montclair

To honor Montclair veterans the Community Activities Commission will be accepting new submissions for plaques on its Veteran's Memorial Wall. The new plaques will be dedicated on Memorial Day, May 25, 2020. The wall, located in the Memorial Garden adjacent to City Hall, pays tribute to individual Montclair veterans from all branches of services who are deceased and remains as an ongoing dedication to those who served our country during any war or peacetime.

Once your application is received we will contact you to verify your plaque's information. For more information call 625-9450.

Please mail or deliver complete applications and payment to the
City of Montclair, Attn: Renee Walker, 5111 Benito St., Montclair, CA 91763 or fax to 399-9751

VETERAN'S NAME _____

YOUR NAME _____ YOUR PHONE _____

YOUR ADDRESS _____

CITY _____ ZIP CODE _____

YOUR EMAIL ADDRESS _____

